(1)

Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

S.A.No. 307 /2005

APPELLANT

1.(A) Shanti Bai, Wd/o. Narayan, Aged about 60 years.

(B) Indrakumar, S/o. Narayan, Aged about 40 years.

(C) Neklal, S/o.Narayan, Aged about 37 years.

(D) Krishna Kumar, S/o. Narayan, Aged about 30 years.

(E) Tirath Ram, S/o. Narayan, Aged about 24 years.

(F) Sita Bai, W/o. Radheshyam, Aged about 41 years.

(G) Dwarika Bai, W/o. Bhuneshwar, Aged about 34 years.

(H) Teman Bai, W/o. Narendra Kumar, Aged about 32 years.

(I) Bhuneshwari, W/o. Manohar Ram, Aged about 26 years.

(J) Gulapa Bai, D/o. Narayan, Aged about 22 years.

2. Shobhit, S/o. Udaylal Dewangan, Aged about 35 years.

3. Bhairo Prasad, S/o. Udaylal Dewangan, Aged about 30 years,
All are resident of village Somajhitiya, Tahsil & District Rajnandgaon (C.G.)

4/11/05

Presented by Shri Anand Mat

10-01-05

VERSUS

RESPONDENTS

1. Shambhu, S/o. Charan, Aged about 45 years, R/o. Matekheda, Tahsil & District Rajnandgaon.

RS 2.(A) Barma @ Parmanand, S/o. Vikram, Aged about 28 years.

RS (B) Maniram, S/o. Vikram Yadav, Aged about 26 years.

RS (C) Madan Lal, S/o. Vikram Yadav, Aged about 24 years.

All are resident of Stationpara, Tahsil & District Rajnandgaon.

3. Rameshar, S/o. Sahdev Dewangan, Aged about 35 years, R/o. village Somajhitiya, Tahsil & District Rajnandgaon, Presently R/o. Motipur, Rajnandgaon, Tahsil & District Rajnandgaon.

X 4. Udaylal, S/o. Shivgulam Dewangan, (Dead) Aged about 60 years, R/o. Somajhitiya, Tahsil & District Rajnandgaon (C.G.)

RS 5. Tulsibai, W/o. Kisun Dewangan, Aged about 50 years, R/o. Somajhitiya, Tahsil & District Rajnandgaon (C.G.)

SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक S.A.No.307 / सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15.11.2006	

Appellants/Plaintiffs by Shri Anup Mazumdar, Advocate.

Respondents/Defendants No.1, 2 (A), (B) & (C) by Shri Rakesh Thakur, Advocate.

Heard on M.C.P.No.1106 of 2006 for condonation of delay in filing this appeal.

This appeal is preferred by the plaintiffs/appellants against the judgment dated 06.10.2004 delivered by District Judge, Rajnandgaon in Civil Appeal No. 42-A of 2003 whereby the judgment and decree dated 10.04.2001 in Civil Suit No. 228-A of 1997 passed by the 1st Civil Judge Class-II, Rajnandgaon whereby the Civil Suit filed by the plaintiffs/appellants was dismissed, was affirmed.

Learned counsel for the appellants submits that this second appeal was filed on 10.02.2005 and there is delay of 31 days in filing this appeal. The cause for the delay as mentioned in the application (M.C.P.No.1106 of 2006) is that the appellants had instructed their counsel in the lower court to get a copy of the judgment and decree for filing second appeal. However, the Clerk of the advocate had informed that file was mixed up with the disposed of records in the office and would take some time. Thereafter, counsel for the appellants took some time to prepare the second appeal. In support of the application, an affidavit of Sheikh Hafiz Qurashi, the registered clerk of Advocate Shri K.N.Bharadwaj, practicing at Rajnandgaon, has also been filed. It

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

is not mentioned in the affidavit as to when did the appellants instruct Shri K.N.Bharadwaj, Advocate at Rajnandgaon to get a certified copy of the judgment and decree. A perusal of the endorsement on the certified copy of the impugned judgment clearly shows that certified copy was promptly applied on 14.10.2004 and the copy was ready and delivered to the appellants on 19.10.2004. In this view of the matter, the cause assigned by the appellant for the delay occasioned in filing this appeal is not substantiated since it is not shown as to why after receiving the certified copy of the impugned judgment on 19.10.2004 the appellants or the Office of their counsel remained in slumber for such a long time i.e. till 10.02.2005. The application (M.C.P.No.1106 of 2006) as also the affidavits filed in support thereof do not show even a semblance of sufficient cause for not preferring the appeal within time.

Since there is no sufficient cause for condoning the delay of 31 days in filing this appeal, M.C.P.No.1106/2006 for condonation of delay is dismissed.

Consequently, Second Appeal No. 307 of 2006 is also dismissed as barred by limitation. I.A.No.2063 of 2006 for amendment in the cause title of the appeal, being inconsequential, also stands disposed of.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani

21.11.06

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